

EXHIBIT “1”

Bankruptcy Court, District of Delaware (Walrath, C.J. presiding) (the "Bankruptcy Court"), *inter alia*, (i) denying in part and granting in part the emergency motion filed by Alber (the "Emergency Motion"), (ii) approving the settlement agreement between TB&F and the Office of the United States Trustee ("UST Settlement Motion"), and (iii) approving the settlement between the Post Effective Date Committee and Goldman Sachs & Co., for and upon the reasons set forth in the Bankruptcy Court's Opinion, dated October 4, 2005. In support of this Motion, Appellee respectfully represents and sets forth as follows:

BACKGROUND

1. On March 1, 2005, the Bankruptcy Court held a full evidentiary hearing (the "Hearing") to consider (a) the Emergency Motion and (b) the UST Settlement Motion. At the Hearing, the Court admitted into evidence, without objection, (a) four (4) exhibits offered by the Appellee and (b) fifteen (15) exhibits offered by the Appellant, all as reflected in the transcript of the Hearing.³ In addition, the Court also admitted into evidence, without objection, the four deposition transcripts of Paul Traub, Michael Fox, Barry Gold and Michael Busenkell.

2. On October 14, 2005, Appellant filed its Notice of Appeal of the October 4 Order [Docket No. 2327]. On October 24, 2005, pursuant to Bankruptcy Rule 8006, Appellant filed its Designation of Record on Appeal (the "Appellant Designation")⁴ [Docket No. 2332]. A copy of the Designation is attached hereto as Exhibit "A." On November 3, 2005, pursuant to Bankruptcy Rule 8006, Appellee filed its "Counter-Designation Of The Record To Be Included In Appeal By Robert K. Alber, Pro Se Appellant, And Counter-Statement Of The Issues On Appeal" (the

³ In addition to the trial exhibits introduced by Appellant and Appellee, appellees Barry Gold and Morris Nichols Arsht & Tunnell also introduced various trial exhibits into evidence.

⁴ In the Designation, Appellant has included characterizations of the substance of the documents referenced therein. Although Appellee has elected not to move to strike certain documents identified in the Designation, such determination should not be interpreted as Appellee's acquiescence to Appellant's characterizations.

“Appellee Counter-Designation”)⁵ [Docket No. 2340]. Appellee has included within the Appellee Counter-Designation all pleadings filed by the Appellant in the Debtors’ bankruptcy cases that were not otherwise stricken by the Bankruptcy Court, all trial exhibits admitted into evidence by the Bankruptcy Court, and all other relevant matters made a part of the record below in connection with either the specific contested matter below or the Debtors’ bankruptcy cases in general. A copy of the Appellee Counter-Designation is attached hereto as Exhibit “B.”

3. In the Appellant Designation, CLI/Appellant has improperly attempted to include in the record on appeal a number of documents which were (A) not part of the record in connection with either the specific contested matter below or the Debtors’ bankruptcy cases in general, (B) not considered by the Bankruptcy Court in entering the October 4 Order, (C) items that are totally incomprehensible so as to be unidentifiable with any precision from which either the court or interested parties can understand what is intended, (D) items that were stricken from the record by the Bankruptcy Court, and (E) items that have never been available to either the Bankruptcy Court below or the other parties in interest, including, but not limited to, Appellee.⁶ Specifically, CLI/Appellant has improperly attempted to designate the following items:

Designated No.	Description	Category
4	Affidavit of Lee Castillo (2nd) with testimony that the Creditors Committee was deceived in the hiring of Barry Gold.	A, D
5	Rulings by Her Honor Walrath describing me, Alber, as being a Party of Interest in this case.	C

⁵ In the Appellant Designation, Appellant has included characterizations of the substance of the documents referenced therein. Although Appellee has elected not to move to strike certain documents identified in the Appellant Designation, such determination should not be interpreted as Appellee’s acquiescence to Appellant’s characterizations.

⁶ As can be seen from the chart below, Appellee has attempted to categorize as many of the improperly designated items as possible. The categorization is not intended to be exhaustive, and it is possible, indeed likely, that many of the items fall into multiple offensive categories.

Designated No.	Description	Category
6	Rulings by Her Honor Walrath allowing me, Alber, to represent myself in these matters, with the provision that others may file Joinders to my Pleadings.	C
7	Rulings by Her Honor Walrath striking the Releases, Injunctions and Indemnification Language protecting any person/entity in this case.	A,C
8	Communications between members of the U.S. Trustee Program and me, Alber.	A,B,E
9	Relevant Rules requiring U.S. Trustee Program members to turn over reports of crimes to the Department of Justice for investigation, which were intentionally contravened by Mark Kenney and others within that program. UST Guidelines of 5-1.2.1 "Duty to Notify & Refer."	A,B,C,E
10	5-1.2.2 referencing Judge Walrath's Order of 18 USC 3057 (a) Duty to Notify & Refer.	A,B,C,E
11	Communications between SEC Investigators and me, Alber.	A,B,E
12	Communications between voting members of the eToys PEDC and me, Alber.	A,B,C,E
13	Communications between Gregory W. Werkheiser, Esq., of MNAT, and me, Alber.	A,B,E
14	All filings in the eToys Bankruptcy Case by me, Alber, detailing various crimes against the eToys Estate and me, Alber, as a Party of Interest.	C,D
15	All filings and submissions in the eToys Bankruptcy Case and elsewhere by eToys insider Steven "Laser" Haas, eToys liquidator, detailing various crimes against the eToys Estate by those within the eToys Estate, based on personal knowledge, information, documentation and other submissions.	A,C,D
16	All filings in the eToys Bankruptcy Case detailing various crimes against the eToys Estate and me, Alber, as a Party of Interest, by MNAT (debtors counsel), Barry Gold (President/CEO, (Plan Administrator) and TBF (creditors committee PEDC counsel).	A,C,D
17	Relevant Court filings in the Stage Stores Bankruptcy Case showing the non-disclosed relationships between Gold and others directly related to our case.	A,B,C,E
19	Relevant Court filings in the Jumbo Sports Bankruptcy Case showing the non-disclosed relationships between Gold and others directly related to our case.	A,B,C,E
20	Relevant Court filings in the Bonus Stores Bankruptcy Case showing the non-disclosed relationships between Gold and others directly related to our case.	A,B,C,E

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21	Relevant Court filings in the Drug Emporium Bankruptcy Case showing the nondisclosed relationships between Gold and others directly related to our case.	A,B,C,E
22	Relevant Court filings in the FAO Schwartz Bankruptcy Case.	A,B,C,E
23	Relevant Court filings in the Homelife Bankruptcy Case.	A,B,C,E
24	Relevant Court Filings in the Adelpia Bankruptcy Case.	A,B,C,E
25	Relevant Court filings in the Montgomery Wards Bankruptcy Case.	A,B,C,E
26	Relevant Court filings in the Brueners Bankruptcy Case.	A,B,C,E
27	Relevant Court filings in the L. Luria & Sons Bankruptcy Case.	A,B,C,E
28	Relevant Court filings in the Toys International/Playco Bankruptcy Case.	A,B,C,E
29	Relevant Court Filings in the Phar-Mor Bankruptcy Case.	A,B,C,E
30	Relevant Court Filings in the Zany Brainy Bankruptcy Case.	A,B,C,E
31	Relevant Court filings in the Gadzooks Bankruptcy Case.	A,B,C,E
32	Relevant Court filings in the KB Toys Bankruptcy Case.	A,B,C,E
33	Relevant Court filings in the eToys Bankruptcy Case (voluminous).	A,B,C
34	Relevant SEC filings for Clear Channel Communications showing MNAT, debtors counsel, having an actual Conflict of Interest with Defendants in eToys LPQ Litigation filed in the New York State Supreme Court, and other issues.	A,B,C,E
35	Other, relevant, SEC filings showing MNAT, debtors counsel, having actual and potential Conflicts of Interest with Defendants in eToys IPO Litigation filed in the New York State Supreme Court, and other issues.	A,B,C,E
36	Relevant SEC filings for Clear Channel Communications showing Shearman & Sterling, counsel for TBF in these proceedings, having an actual Conflict of Interest with Defendants in eToys IPO Litigation filed in the New York State Supreme Court, and other issues.	A,B,C,E
37	Other, relevant, SEC filings.	A,B,C,E
38	Fee Applications in the eToys case for TBF, MNAT, Crossroads, Richard Cartoon and Irell & Manella.	A,B
42	Transcript of the October 16 th , 2002, Court Hearing in the eToys Bankruptcy Case.	A,B
43	Transcript of the November 1 st , 2002, Court Hearing in the eToys Bankruptcy Case.	A,B
44	Transcript of the August 5 th , 2002, Court Hearing in the eToys Bankruptcy Case (on order, and which we will provide to this Court upon my receiving it).	A,B
46	Excerpts from various fee applications and other documentation in this case detailing how Barry Gold achieved a pay increase by applying directly to TBF members, and not through regular, accepted channels of communication and approval for such a pay increase to normally occur.	A,B,C

Designated No.	Description	Category
50	Excerpts from eToys Disclosure Statement and Liquidating Plan of Reorganization, showing language both prior to and after language Ordered by Judge Walrath, at my, Alber, insistence, being added to the Plan and Disclosure Statement.	A,B,C
51	Excerpts from eToys Supplement to the Liquidating Plan of Reorganization, showing 5.2 - Removal of Plan Administrator by Party(ies) of Interest	A,B,C
52	eToys Docket 1312, Disclosure of Barry F. Gold in his application to become eToys Plan Administrator, showing conflicting testimony as to what position he, Gold, was hired to fulfill within eToys, his further attempts to obfuscate Justice in not disclosing his status as employee and partner of Paul Traub, TBF, and other matters inconsistent with other testimony by Gold.	A,B,C
53	2001-01-16 Initial, pre-bankruptcy filing of eToys STANDSTILL AGREEMENT with creditors and TBF retention.	A,B,C,E
54	2000-12-04 Details of a special, confidential meeting between eToys Executives, Officers and Directors where impending Bankruptcy, Retention of Key Employees, and severance agreements between then-current eToys Executives was discussed and contracts entered into by Steve Schoch, Toby Tank and John Hnanicek.	A,B,C,E
57	Details gleaned from various SEC documents, eToys filings and other documentation describing eToys \$40 million Revolving Credit Facility with Foothill Capital, a wholly owned subsidiary of Welts Fargo, paid off by eToys in a Preferential Payment which was never contested or even mentioned by Gold, MNAT, or any other entity in charge of running the day-to-day operations of the eToys Estate.	A,B,C,E
58	eToys Bankruptcy Filings by MNAT (and others) detailing IPO Litigation currently in the New York State Supreme Court system, whose authority tin behalf the Debtors. eToys, was transferred to TBF/eToys Creditors Committee, and now the eToys PEDC, while intentionally not Disclosing their relationships with defendants in the aforementioned IPO Litigation, causing perhaps irreparable harm to the eToys Estate and me, Alber, as an eToys party of interest and equity security holder.	C
59	Various Federal Court Rules, Codes and findings concerning Disclosure requirements in Federal Bankruptcy Proceedings.	C
60	Rule 2014 on Professional Persons	
61	Rule 2016 on Professional Persons	
62	Code 327 (a) Employment of Professional Persons	
63	Code 101(14) Definition(s)	
64	Code 105 (a) Sua Sponte	
65	Code 503(b) Substantial Contribution	
66	Rule 7024 Intervention	

Designated No.	Description	Category
67	Other Rules and Codes relevant to Bankruptcy Crimes which have occurred in the eToys Bankruptcy Case.	C
68	Excerpts from various eToys filings, depositions, testimony and transcripts proving that Barry Gold does not in fact hold Her Honor Walrath, as presiding Judge in these bankruptcy proceedings, as the ultimate authority, but rather his employer, TBF, in matters causing actual harm to the eToys Estate and me, Alber, as a party of interest and equity security holder.	C
69	A copy of the registered equity security holders list in this case given to me, Alber, at the direction of the Her Honor Walrath on October 16 th , 2002, by Gregory Werkheiser, MNAT, showing Goldman Sachs as a party of interest in the eToys Bankruptcy Case.	A,B,C,E
70	Affidavits of the Firm Traub Bonacquist & Fox affirming absence of conflicts and acknowledging fulfillment of required Disclosure requirements.	C
71	Declaration of Barry Gold as Plan Administrator signed under "penalty of perjury".	C
72	Affidavit(s) of Morris Nichols Arsht & Tunnel ("MNAT").	C
73	Hearing on Goldman Sachs where MNAT failed to Appear	A,B,C
74	Court Order fining MNAT for Failure to Appear	A,B,C
75	Excerpt from UST Motion of February 15, 2005, which specifically references where he warned all parties that replacements of any key employee of Debtor had to be "arms length".	C
76	Excerpt(s) from Transcript showing I, Alber, questioning Barry Gold about a direct connection with TBF. Showing premeditated intent by Fred Rosner, TBF, MNAT, Barry Gold, Kenney and others to deceive.	A,B,C
77	Excerpt from Transcript of Dec. 22, 2005 hearing of US Trustee statement by Frank Perch.	C
79	Excerpt from Response of Barry Gold on January 25, 2005 with a first time view of the Barry Gold hiring letter, drafted by both Counsels and signed given Barry Gold "willful" circumvention of the Rule(s) and Code at his own volition in an endeavor to avoid perjury and other Fraud statute violations.	C
85	Appeal Court rulings and standards on the "unambiguous" standard! (emphasis added)	A,B,C,E
86	UST Handbook and Guidelines on Duties and Fraud as part of the US DOJ.	A,B,C,E
87	Appeal Court rulings and standards on the "unambiguous" standard! (emphasis added)	A,B,C,E
88	UST Handbook and Guidelines on Duties and Fraud as part of the US DOJ.	A,B,C,E
89	28 USC 586(A)(3)(F)	A,B,C,E
90	Janet Reno Reform Act of 1994	A,B,C,E

Designated No.	Description	Category
91	18 USC 155 Fee Agreement statues against Scheme to Fix Fee's	A,B,C,E
92	In re: Bonus Sales Document of Asset Disposition Advisors	A,B,C,E
93	In re: Bonus Sales US Trustee note by Mark Kenney	A,B,C,E
94	In re: Bonus Sales Transcript of discussion by Mark Kenneth "ex parte" of conflicts with a counsel of the Estate and Creditors	A,B,C,E
95	In re: Homelife docket items by Paul Traub and Barry Gold in spring of 2001	A,B,C,E
97	Barry Gold's Testimony of connections to Jack Bush of Idea Forest, Bain, Stage Store's, Jumbo Sports.	A,B,C,E
98	Barry Gold's Testimony of connections to another director of Stage Store's, and Bombay Company, who was previous employer of Michael Glazer of KB Toys when eToys Assets were purchased by KB Toys	A,B,C,E
99	SEC report of Stage Stores which shows Jack Bush and Michael Glazer (CEO of KB Toys).	A,B,C,E
100	KB Toys record on pre petition payment of Michael Glazer and others far mute than \$100 million	A,B,C,E
101	KB Toys record on TBF asking to be the one to prosecute the Michael Glazer pre petition payments	A,B,C,E
102	eToys Docket Records of purchases by KB Toys of eToys assets	A,B,C,E
103	Barry Gold Testimony of working with Foothill owner Wells Forgo	A,B,C,E
104	Paul Traub Testimony of working with Wells Forgo, Fleet and others	A,B,C,E
105	18 USC 1961 Code of Racketeer Influenced and Corrupt Organizations	A,B,C,E
106	Kmart document showing Mark Kenney hand-picked TBF as Counsel for equity holders.	A,B,C,E
107	Fate of Barry Gold from Gadzooks	A,B,C,E
108	US Trustee Motion notes In re: Bonus Sales on the company of Paul Traub and Barry Gold	A,B,C,E
109	Document of Johnson & Johnson of Purchase of Baby Center.com from eToys prepetition signed by one "Nancy A. Valente"	A,B,C,E
110	Document of formation of the Barry Gold/Paul Traub company of Asset Disposition Advisors ("ADA") registered agent of "Nancy A Valente".	
111	Paul Traub's testimony on Hutchins, Wheeler involvement in forming ADA	C
112	Paul Traub's Testimony in his deposition of Feb 9, 2005 where he states that he and Barry Gold were engaged by Fleet	C
113	Documentation listing of Claims acquired by Madison Liquidity in eToys case	A,B,C,E
114	IPO lawsuit of eToys vs. Goldman Sachs, Fleet, Credit Suisse and Merrill Lynch	B,C,E

Designated No.	Description	Category
115	Paul Traub affidavit, and other affidavits, regarding MNAT vacating its role as debtors counsel in prosecuting the IPO litigation against Goldman Sachs and authorizing TBF to handle the case on behalf of the eToys Estate	C
116	Rule(s) and Code(s) on the unlawful retaliation by a counsel in Bankruptcy cases for personal gain or vendetta	A,B,C,E

RELIEF REQUESTED

4. By this Motion, Appellee seeks the entry of an order pursuant to Bankruptcy Rule 8006, *inter alia*, striking the Improperly Designated Items, so that these items are not part of the appellate record on Appellant's appeal of the October 4 Order.

APPLICABLE AUTHORITY

5. Bankruptcy Rule 8006 provides, in pertinent part,

Within 10 days after filing the notice of appeal as provided by Rule 8001(a), . . . the appellant shall file with the clerk and serve on the appellee a designation of the items to be included in the record on appeal and a statement of the issues to be presented. Within 10 days after the service of the appellant's statement the appellee may file and serve on the appellant a designation of additional items to be included in the record on appeal . . . The record on appeal shall include the items so designated by the parties, the notice of appeal, the judgment, order, or decree appealed from, and any opinion, findings of fact, and conclusions of law of the court. . . .

6. The record on appeal "should contain all documents and evidence bearing on the proceedings below and considered by the bankruptcy judge in reaching his decision." In re Chateaugay Corp., 64 B.R. 990, 995 (S.D.N.Y. 1986) (quoting In re W.T. Grant Co., 432 F.Supp. 105, 106 (S.D.N.Y. 1977), which interpreted Bankruptcy Rule 8006, the predecessor of Bankruptcy Rule 8006). *See also* In re Neshaminy Office Bldg. Assocs., 62 B.R. 798, 802 (E.D. Pa. 1986) (same); In re Food Fair, Inc., 15 B.R. 569, 572 (Bankr. S.D.N.Y. 1981) (same).

7. To be clear, “items not before the Bankruptcy Court and not considered by it in rendering its decision may not be included in the record.” Neshaminy, 62 B.R. at 802 (quoting In re Candor Diamond Corp., 26 B.R. 844, 846-47 (Bankr. S.D.N.Y. 1983). Deposition transcripts not filed in the underlying bankruptcy case nor offered in evidence during the hearing on the specific matter are not properly part of the record on appeal. In re Saco Local Dev. Corp., 13 B.R. 226, 229-230 (Bankr. D. Me. 1981).

8. The United States Court of Appeals for the Third Circuit has held that, where a particular contested matter is “sufficiently associated with the general administration of the debtor’s estate,” the relevant record should include documents filed in the main bankruptcy case. In re Indian Palms Associates, Ltd., 61 F.3d 197, 204-205 (3^d Cir. 1995). The Third Circuit made clear, however, that a document included in the record on appeal is still subject to principles that limit its use, including evidentiary competence and a fair opportunity for rebuttal. Id. at 205.

9. While in some cases an appellate court can take judicial notice of adjudicative facts “not subject to reasonable dispute,” it cannot do so if unfair to a party and would undermine the trial court’s fact finding authority. Indian Palms, 61 F.3d at 205-206.

10. While some courts have held that disputes over the proper content of the appellate record are decided by the Bankruptcy Court in the first instance, there can be no dispute but that this Court has authority to fix the appellate record where a party seeks to improperly include matters, materials and issues that were not before the bankruptcy court below. See Neshaminy, 62 B.R. at 802; In re Armorflite Precision, Inc., 48 B.R. 994, 996 (D. Me. 1985); Food Fair, 15 B.R. at 571; Saco, 13 B.R. at 228–229. But see In re Dow Corning Corp., 263 B.R. 544, 548 (Bankr. E.D. Mich. 2001) (Collier on Bankruptcy, in discussing Rule 8006 cites Dow Corning

for the proposition that there is "some doubt" as to whether the appellate may be heard to complain about an overly broad designation of the record and that the rule allows only addition and not subtraction from the record on appeal. Collier goes on to note, however, that the decision is "probably incorrect" citing Chateaugay 64 B.R. at 995 (SDNY 1986)).

**THE COURT SHOULD STRIKE THE
IMPROPERLY DESIGNATED ITEMS SO THAT THEY
ARE NOT INCLUDED IN THE RECORD ON APPEAL**

11. The above case law makes clear that the record on appeal should consist of only those items filed with, or introduced before, or available to the Court in connection with the proceedings that were considered by the Bankruptcy Court in entering the October 4 Order or the Debtors' bankruptcy cases, in general. Appellant's Improperly Designated Items do not meet any of these requirements and should not be included in the record on appeal.

12. Finally, none of the Improperly Designated Items may be included in the record under the doctrine of judicial notice, as inclusion would undermine the Court's fact finding authority, as the District Court would consider documents, for the first time on appeal, which were readily available and could have easily been requested to be admitted before this Court.

WHEREFORE, Appellee prays that the Court enter an order striking the Improperly Designated Items from the record on appeal of the October 4 Order, and that the Court grant Appellee such further relief as is just and proper.

Dated: December 19, 2005

JASPAN SCHLESINGER HOFFMAN LLP
Delaware Counsel to Traub, Bonacquist & Fox LLP

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Exhibit “A”

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

-----X

In re:

Chapter 11

ETOYS, INC., et al.,

Case Nos. 01-0706 (MFW)

Debtors.

-----X

**DESIGNATION OF RECORD ON APPEAL BY
APPELLANT ROBERT K. ALBER,
ETOYS SHAREHOLDER**

FILED
2005 OCT 24 PM 5:15
U.S. BANKRUPTCY COURT
DISTRICT OF DELAWARE

Pursuant to Bankruptcy Rule 8006 of the Federal Rules of Bankruptcy Procedure, Appellant, Robert K. Alber, eToys Shareholder and Pro Se (ALBER), hereby designates the following items and documents be included in the Record on Appeal, with respect to my "Intent to Appeal Notice" dated October 14th, 2005, with the 3rd Circuit Court of Appeals for the District of Delaware as my requested venue. Appellant, Alber, also Respectfully Requests that this Appeal be heard in oral argument under Bankruptcy Rule 8012. In accordance with my understanding of Bankruptcy Rule 8012, I shall file a separate brief with the Clerk detailing my reasons in support of oral argument.

Designation of Documents and Submissions

1. The Opinion of the Court, by Her Honor Walrath, on these issues dated October 4, 2005.
2. The Orders of the Court, by Her Honor Walrath, on these issues dated October 4, 2005.
3. Filing(s) by the U.S. Trustee, Kelley Stapleton, detailing TBF and Gold's pattern of failing to Disclose their relationships during the eToys Bankruptcy case, which I joined in part, and objected to in part.
4. Affidavit of Lee Castillo (2nd) with testimony that the Creditors Committee was deceived in the hiring of Barry Gold.
5. Rulings by Her Honor Walrath describing me, Alber, as being a Party of Interest in this case.
6. Rulings by Her Honor Walrath allowing me, Alber, to represent myself in these matters, with the provision that others may file Joinders to my Pleadings.
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15. All filings and submissions in the eToys Bankruptcy Case and elsewhere by eToys insider Steven 'Laser' Haas, eToys liquidator, detailing various crimes against the eToys Estate by those within the eToys Estate, based on personal knowledge, information, documentation and other submissions.

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37. Other, relevant, SEC filings.
38. Fee Applications in the eToys case for TBF, MNAT, Crossroads, Richard Cartoon and Irell & Manella.
39. Transcript of the March 1st, 2005, Court Hearing in the eToys Bankruptcy Case.
40. Transcript of the February 1st, 2005, Court Hearing in the eToys Bankruptcy Case.
41. Transcript of the December 22nd, 2004, Court Hearing in the eToys Bankruptcy Case.
42. Transcript of the October 16th, 2002, Court Hearing in the eToys Bankruptcy Case.
43. Transcript of the November 1st, 2002, Court Hearing in the eToys Bankruptcy Case.
44. Transcript of the August 5th, 2002, Court Hearing in the eToys Bankruptcy Case (on order, and which we will provide to this Court upon my receiving it).
45. Transcript of the Deposition of Barry F. Gold, CEO/President/Plan Administrator of eToys on February 9th, 2005, held in conjunction with the eToys Bankruptcy Case at the direction of Her Honor Walrath, showing, among other things, that Barry Gold is and has been an employee of TBF, and under direct, actual TBF direction, prior to and during his tenure as Wind-down Coordinator/President/CEO of eToys, prior to the Plan being approved by Her Honor Walrath.
46. Excerpts from various fee applications and other documentation in this case detailing how Barry Gold achieved a pay increase by applying directly to TBF members, and not through regular, accepted channels of communication and approval for such a pay increase to normally occur.
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48. Transcript of the Deposition of Paul Traub, ESQ, TBF, on February 9th, 2005, held in conjunction with the eToys Bankruptcy Case at the direction of Her Honor Walrath.

49. Transcript of the Deposition of Michael G. Busenkell, ESQ, MNAT, on February 9th, 2005, held in conjunction with the eToys Bankruptcy Case at the direction of Her Honor Walrath, showing that Mr. Busenkell has no regard and/or understanding of Rules governing attorney ethics in Federal Bankruptcy Court, that MNAT as a whole does not require attorney members of the MNAT Firm to know relevant, required, Law governing attorney ethics and Disclosure requirements, and other issues.
50. Excerpts from eToys Disclosure Statement and Liquidating Plan of Reorganization, showing language both prior to and after language Ordered by Judge Walrath, at my, Alber, insistence, being added to the Plan and Disclosure statement.
51. Excerpts from eToys Supplement to the Liquidating Plan of Reorganization, showing 5.2 – Removal of Plan Administrator by Party(ies) of Interest.
52. eToys Docket 1312, Disclosure of Barry F. Gold in his application to become eToys Plan Administrator, showing conflicting testimony as to what position he, Gold, was hired to fulfill within eToys, his further attempts to obfuscate Justice in not disclosing his status as employee and partner of Paul Traub, TBF, and other matters inconsistent with other testimony by Gold.
53. 2001-01-16 Initial, pre-bankruptcy filing of eToys STANDSTILL AGREEMENT with creditors and TBF retention.
54. 2000-12-04 Details of a special, confidential meeting between eToys Executives, Officers and Directors where impending Bankruptcy, Retention of Key Employees, and severance agreements between then-current eToys Executives was discussed and contracts entered into by Steve Schoch, Toby Lenk and John Huanicek.
55. Documentation showing that the formation of ADA was by a third party, yet to be named, and not as a sole business venture between Barry Gold and Paul Traub (by their testimony).
56. Documentation from the New York Secretary of State's Office showing Traub, Bonacquist & Fox, LLP, has not been a Corporation in Good Standing in the State of New York since early in these eToys Bankruptcy proceedings, thereby bringing into question all fee applications filed by TBF under Rule 2016 and others. Their Corporate LLP status had been revoked on 2002-03-27.
57. Details gleaned from various SEC documents, eToys filings and other documentation describing eToys \$40 million Revolving Credit Facility with Foothill Capital, a wholly owned subsidiary of Wells Fargo, paid off by eToys in a Preferential Payment which was never contested or even mentioned by Gold, MNAT, or any other entity in charge of running the day-to-day operations of the eToys Estate.
58. eToys Bankruptcy Filings by MNAT (and others) detailing IPO Litigation currently in the New York State Supreme Court system, whose authority on behalf the Debtors,

eToys, was transferred to TBF/eToys Creditors Committee, and now the eToys PEDC, while intentionally not Disclosing their relationships with defendants in the aforementioned IPO Litigation, causing perhaps irreparable harm to the eToys Estate and me, Alber, as an eToys party of interest and equity security holder.

59. Various Federal Court Rules, Codes and findings concerning Disclosure requirements in Federal Bankruptcy Proceedings.
60. Rule 2014 on Professional Persons
61. Rule 2016 on Professional Persons
62. Code 327 (a) Employment of Professional Persons
63. Code 101(14) Definition(s)
64. Code 105 (a) Sua Sponte
65. Code 503(b) Substantial Contribution
66. Rule 7024 Intervention
67. Other Rules and Codes relevant to Bankruptcy Crimes which have occurred in the eToys Bankruptcy Case.
68. Excerpts from various eToys filings, depositions, testimony and transcripts proving that Barry Gold does not in fact hold Her Honor Walrath, as presiding Judge in these bankruptcy proceedings, as the ultimate authority, but rather his employer, TBF, in matters causing actual harm to the eToys Estate and me, Alber, as a party of interest and equity security holder.
69. A copy of the registered equity security holders list in this case given to me, Alber, at the direction of the Her Honor Walrath on October 16th, 2002, by Gregory Werkheiser, MNAT, showing Goldman Sachs as a party of interest in the eToys Bankruptcy Case.
70. Affidavits of the Firm Traub Bonacquist & Fox affirming absence of conflicts and acknowledging fulfillment of required Disclosure requirements.
71. Declaration of Barry Gold as Plan Administrator signed under "penalty of perjury".
72. Affidavit(s) of Morris Nichols Arsht & Tunnel ("MNAT").
73. Hearing on Goldman Sachs where MNAT failed to Appear.
74. Court Order fining MNAT for Failure to Appear.

75. Excerpt from UST Motion of February 15, 2005 which specifically references where he warned all parties that replacements of any key employee of Debtor had to be "arms length".
76. Excerpt(s) from Transcript showing I, Alber, questioning Barry Gold about a direct connection with TBF. Showing premeditated intent by Fred Rosner, TBF, MNAT, Barry Gold, Kenney and others to deceive.
77. Excerpt from Transcript of Dec 22, 2005 hearing of US Trustee statement by Frank Perch.
78. Response by Barry Gold of January 25, 2005.
79. Excerpt from Response of Barry Gold on January 25, 2005 with a first time view of the Barry Gold hiring letter, drafted by both Counsels and signed given Barry Gold "willful" circumvention of the Rule(s) and Code at his own volition in an endeavor to avoid Perjury and other Fraud statute violations.
80. Response of the Post Effective Date Committee ("PEDC") of January 25, 2005
81. Response of TBF on January 25, 2005.
82. Motion(s) of Haas/CLI to disqualify & disgorge.
83. Motion(s) of Robert Alber to disqualify & disgorge.
84. US Trustee Motion to Settle TBF issue(s) of February 25, 2005.
85. Appeal Court rulings and standards on the "unambiguous" standard! (emphasis added)
86. UST Handbook and Guidelines on Duties and Fraud as part of the US DOJ.
87. Appeal Court rulings and standards on the "unambiguous" standard! (emphasis added)
88. UST Handbook and Guidelines on Duties and Fraud as part of the US DOJ.
89. 28 USC 586(A)(3)(F)
90. Janet Reno Reform Act of 1994.
91. 18 USC 155 Fee Agreement statutes against Scheme to Fix Fee's.
92. In re: Bonus Sales Document of Asset Disposition Advisors.
93. In re: Bonus Sales US Trustee note by Mark Kenney.

94. In re: Bonus Sales Transcript of discussion by Mark Kenney "ex parte" of conflicts with a counsel of the Estate and Creditors.
95. In re: Homelife Docket items by Paul Traub and Barry Gold in spring of 2001.
96. Sec of State of Delaware on Asset Disposition Advisors ("ADA").
97. Barry Gold's Testimony of connections to Jack Bush of IdeaForest, Bain, Stage Store's, Jumbo Sports.
98. Barry Gold's Testimony of connections to another director of Stage Store's, and Bombay Company, who was previous employer of Michael Glazer of KB Toys when eToys Assets were purchased by KB Toys.
99. SEC report of Stage Stores which shows Jack Bush and Michael Glazer (CEO of KB Toys).
100. KB Toys record on pre petition payment of Michael Glazer and others for more than \$100 million.
101. KB Toys record on TBF asking to be the one to prosecute the Michael Glazer pre petition payments.
102. eToys Docket Records of purchases by KB Toys of eToys assets.
103. Barry Gold Testimony of working with Foothill owner Wells Fargo.
104. Paul Traub Testimony of working with Wells Fargo, Fleet and others.
105. 18 USC 1961 Code of Racketeer Influenced and Corrupt Organizations.
106. Kmart document showing Mark Kenney hand-picked TBF as Counsel for equity holders.
107. Fax of Barry Gold from Gadzooks.
108. US Trustee Motion notes In re: Bonus Sales on the company of Paul Traub and Barry Gold.
109. Document of Johnson & Johnson of Purchase of Baby Center.com from eToys pre-petition signed by one "Nancy A. Valente".
110. Document of formation of the Barry Gold/Paul Traub company of Asset Disposition Advisors ("ADA") registered agent of "Nancy A Valente".
111. Paul Traub's testimony on Hutchins, Wheeler involvement in forming ADA.

112. Paul Traub's Testimony in his deposition of Feb 9, 2005 where he states that he and Barry Gold were engaged by Fleet.
113. Documentation listing of Claims acquired by Madison Liquidity in eToys case.
114. IPO lawsuit of eToys vs. Goldman Sachs, Fleet, Credit Suisse and Merrill Lynch...
115. Paul Traub affidavit, and other affidavits, regarding MNAT vacating its role as debtors counsel in prosecuting the IPO litigation against Goldman Sachs and authorizing TBF to handle the case on behalf of the eToys Estate.
116. Rule(s) and Code(s) on the unlawful retaliation by a counsel in Bankruptcy cases for personal gain or vendetta.

While this list of documents and submissions may seem lengthy to some, the issues at hand and the seriousness of my allegations detailing a pattern of abuse from the beginning of this eToys Bankruptcy case, by virtually all Parties in control of this case and the eToys Estate, demands that such extreme actions be undertaken. Additionally, I submit that 'extraordinary circumstances' have occurred, as described by Chief Federal Judge Walrath in her October 4th, 2005, Opinion (of which certain parts thereof are the subject of this Appeal), and must needs demand that all facets of this case must be taken into account to arrive at a Just decision since a) this pattern of abuse started well before the Plan of Reorganization was approved by the Court, b) Appellees have already admitted to certain crimes and been found guilty of others, c) the ramifications and damages suffered by me, and which are derived from this abuse, will continue until the closing of this case, and finally d) this conduct by Appellees is willful and malicious in its intent. As many of the issues I've raised deal with Conflicts of Interests, and willful lack of Disclosure, and have been thus far found to be with willful intent to commit fraud upon the Court and the (eToys) Estate, and that such 'goes to the heart of the integrity of the bankruptcy system', this is justification for the amount of time and effort that must be expended investigating these issues by this Court.

Furthermore, several items need to be mentioned at this point. Namely:

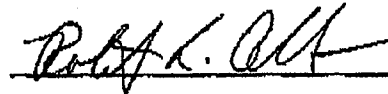
Furthermore, several items need to be mentioned at this point. Namely:

1. I am a 'Party of Interest' as previously ruled by Her Honor Walrath, and as described in the eToys Plan of Reorganization and Disclosure Statement.
2. This Appeal is not against the eToys Estate (debtor).
3. The 'releases' and 'injunctions' indemnifying those running the Estate, and/or associated with it, were struck down in a hearing before Her Honor Walrath, and other reasons why 'releases' and 'injunctions' do not indemnify the Appellees are detailed in Her Honor Walrath's Opinion of October 4th, 2005.
4. Arguments by me, Alber, that MNAT does not in fact represent the eToys Estate (debtor) as proscribed by Law will be in detail, and conclusive.

Whereas Appellant does state that a copy of this document is executed this 24th day of October, 2005, and sent via courier to be received by the Clerk of the Court in the Federal District of Delaware for docket submission on October 24th, 2005, in accordance with Appeal Rules 8000 thru 8009.

Dated: Monday, October 24th, 2005

Respectfully Submitted,



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Steven Fox

From: Frederick B. Rosner [frosner@jshllp-de.com]
Sent: Wednesday, October 26, 2005 1:01 PM
To: Steven Fox; Minuti, Mark; Susan Balaschak
Subject: FW: Ch-11 01-00706-MFW Designation of Items (Appellant) (Ap) - ETOYS, Inc., A Del

Frederick B. Rosner, Esq.
Jaspan Schlesinger Hoffman LLP
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From: DEBdb_ECF_Reply@deb.uscourts.gov [mailto:DEBdb_ECF_Reply@deb.uscourts.gov]
Sent: Wednesday, October 26, 2005 12:58 PM
To: dummail@deb.uscourts.gov
Subject: Ch-11 01-00706-MFW Designation of Items (Appellant) (Ap) - ETOYS, Inc., A Del

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U.S. Bankruptcy Court

District of Delaware

Notice of Electronic Filing

The following transaction was received from entered on 10/26/2005 at 12:57 PM EDT and filed on 10/24/2005

Case Name: ETOYS, Inc., A Delaware Corporation
Case Number: 01-00706-MFW
Document Number: 2332

Docket Text:

Appellant Designation of Contents For Inclusion in Record On Appeal *Number 05-71* (related document (s)[2327]) Filed by Robert K. Alber Appellee designation due by 11/3/2005. Transmission of Designation Due by 11/23/2005. (ALC,)

The following document(s) are associated with this transaction:

Document description:Main Document
Original filename:T:\Anissa\3.pdf

10/26/2005

Exhibit “B”

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

-----X	
In re:	:
	:
	: Chapter 11
	:
ETOYS, INC., et al. ¹ ,	:
	: Case Nos. 01-0706 (RB)
	: Through 01-0709 (RB)
Debtors.	:
	:
-----X	
ROBERT K. ALBER, <i>Pro Se</i> ,	:
	:
Appellant,	: Civil Action No. 05-_____
	:
v.	:
	:
TRAUB, BONACQUIST & FOX LLP,	:
BARRY GOLD, MORRIS NICHOLS	:
ARSHT & TUNNEL LLP, AND POST-	: [Related to Docket No. 2332]
EFFECTIVE DATE COMMITTEE OF	:
EBC I, INC.,	:
	:
Appellees.	:
-----X	

**APPELLEE'S COUNTER-DESIGNATION
OF THE RECORD TO BE INCLUDED IN APPEAL
BY ROBERT K. ALBER, PRO SE APPELLANT, AND
COUNTER-STATEMENT OF THE ISSUES ON APPEAL**

Appellee Traub, Bonacquist & Fox LLP (TB&F" or "Appellee"), pursuant to Rule 8006 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), hereby submits (i) the following items to be included in the Record on Appeal herein, in addition to those items designated by Appellant, Robert K. Alber, *Pro Se*, and (ii)

¹ The Debtors are the following entities: EBC I, Inc. f/k/a eToys, Inc. ("eToys"), EBC Distribution, LLC, f/k/a eToys Distribution LLC, PMJ Corporation and eKids, Inc.

Appellee's Counter-Statement of the Issues on Appeal², in connection with Appellant's appeal of the October 4, 2005 Order (the "October 4 Order") of the United States Bankruptcy Court, District of Delaware (Walrath, C.J. presiding) (the "Court"), *inter alia*, (i) denying in part and granting in part the emergency motion filed by Alber (the "Emergency Motion"), (ii) approving settlement agreement between TB&F and the Office of the United States Trustee ("UST Settlement Motion"), and (iii) approving settlement between the PEDC and Goldman Sachs & Co., Inc., for and upon the reasons set forth in its Opinion, dated October 4, 2005.

COUNTER-DESIGNATION OF RECORD ON APPEAL

Tab No.	Date Filed	Docket No.	Description of Pleading
1.	11/24/04	2128	Motion for Order Approving Settlement With Goldman, Sachs & Co.
2.	12/14/2004	2141	Objection by Collateral Logistics, Inc. to PEDC Motion to Settle With Goldman Sachs & Co. and Request for Court Action of Sanctions and Removal per Rule Due to Failure to Disclose and Possible Fraud.
3.	12/15/2004	2138	Objection by Robert K. Alber to the Proposed Goldman Sachs & Co. Settlement.
4.	12/15/2004	2139	Certification of No Objection of PEDC to Motion for Order Approving Settlement with Goldman Sachs & Co. (WITHDRAWN)

² In its Designation of the Record on Appeal, Appellant has failed to identify documents by their correct titles or by official docket numbers. As a result, Appellee is unable to determine precisely what documents Appellant is referring to in its Designation of the Record. Accordingly, in this Counter-Designation, Appellee herein designates all those items that it believes should be included in the Record on Appeal. In doing so, Appellee has included within the designated record all pleadings filed by Appellant that were not otherwise stricken by the Bankruptcy Court. In addition, Appellant has designated numerous items that were not part of the record below, and are inappropriate for inclusion in the Record on Appeal. Consequently, Appellee reserves the right to seek an order striking certain items from Appellant's designation.

Tab No.	Date Filed	Docket No.	Description of Pleading
5.	12/15/2004	2143	Notice of Withdrawal filed by PEDC to Certification of No Objection of PEDC Motion for Order Approving Settlement with Goldman Sachs & Co.
6.	12/20/2004	2145	(Emergency) Motion filed by Robert K. Alber to Allow an Official Investigation, Request that Sanctions, Disgorgement of Fees and Immediate Removal of Barry Gold, Paul Traub, Michael Fox and Traub, Bonacquist & Fox LLP, Among Others be Effected Immediately
7.	12/22/2004	2146	(Emergency) Motion of Collateral Logistics, Inc. to Allow Facts in Evidence, to Disqualify Traub, Bonacquist & Fox as Council for Creditors Committee and Request to Remove Barry Gold
8.	1/4/05	2152	Transcript of Hearing Held on December 22, 2004 Before the Honorable Mary F. Walrath
9.	1/25/2005	2169	Barry Gold's Response to Emergency Motions filed by Robert K. Alber and COLLATERAL LOGISTICS, INC.
10.	1/25/2005	2170	PEDC's Response in Opposition to Emergency Motions filed by COLLATERAL LOGISTICS, INC. and Robert K. Alber
11.	1/25/2005	2171	Objection by Traub, Bonacquist & Fox LLP to Motions Seeking, <i>Inter Alia</i> , Sanctions, Disgorgement of Fees, and Immediate Removal of Traub, Bonacquist & Fox LLP filed by Robert K. Alber and Collateral Logistics, Inc.

Tab No.	Date Filed	Docket No.	Description of Pleading
12.	1/25/2005	2173	Omnibus Response and Objection of EBC I, Inc., f/k/a eToys, Inc. Reorganized Debtor, to: (I) Objection of Robert K. Alber, on Behalf of Himself and Purported eToys Shareholders Group, to Motion for Order Approving Settlement with Goldman, Sachs & Co.; (II) Objection by Collateral Logistics, Inc. to PEDC Motion to Settle with Goldman Sachs and Request for Court Action of Sanctions and Removal all per Rule Due to Failure to Disclose and Possible Fraud; (III) Motion of Robert K. Alber, on Behalf of Himself and Purported eToys Shareholders Group, for Various Relief; and (IV) Motion of Collateral Logistics, Inc. for Various Relief
13.	1/25/2005	2178	Motion of Robert K. Alber to Allow an Official Investigation by Initiated by the Court, the US Trustee Office, and/or the SEC into Violations of Code (a) and Rule 2014, and others, and Request that Sanctions, Disgorgement of Fees and the Immediate Removal of Debtors Counsel as Represented by Robert Dehney, Michael Busenkell, Gregory Werkheiser and Morris, Nichols, Arsht & Tunnell (MNAT), Among Others, be Effected Immediately
14.	2/8/05	2191	Transcript of Hearing Held on February 1, 2005 Before the Honorable Mary F. Walrath
15.	2/9/2005	2189	Scheduling Order (w/Revisions) re: Motions and MNAT Disqualification Motion
16.	2/11/2005	2193	Objection of Morris, Nichols, Arsht & Tunnell to Motion of Robert K. Alber for Disqualification of Morris, Nichols, Arsht & Tunnell as Counsel to Reorganized Debtor, Disgorgement of Compensation and Other Relief
17.	2/11/2005	2194	Response to and Reaffirmation of Emergency Requests Concerning Criminal and Civil Acts by Multiple Parties in the eToys Collective Cases, filed by Collateral Logistics, Inc.

Tab No.	Date Filed	Docket No.	Description of Pleading
18.	2/15/2005	2195	United States Trustee's Motion for Entry of an Order Directing Disgorgement of Fees to be Paid to Traub, Bonacquist & Fox (TBF) for Services Rendered as Counsel to the Official Committee of Unsecured Creditors
19.	2/24/2005	2201	United States Trustee's Motion to Approve Settlement of Motion for Order Directing Disgorgement of Fees Paid to Traub Bonacquist & Fox LLP for Services Rendered as Counsel to Official Committee of Unsecured Creditors
20.	2/24/2005	2202	United States Trustee's Motion to Shorten Time, to Limit Notice and to Approve Form and Manner of Notice in Connection with Motion to Approve Settlement of Motion for Order Directing Disgorgement of Fees Paid to Traub Bonacquist & Fox LLP for Services Rendered as Counsel to Official Committee of Unsecured Creditors
21.	2/25/2005	2205	Emergency Motion by Traub, Bonacquist & Fox LLP to Continue Evidentiary Hearings
22.	2/28/2005	2210	Order (with Revisions by the Court) Granting Traub, Bonacquist & Fox LLP's Emergency Motion to Continue Evidentiary Hearings
23.	3/1/2005	2212	Limited Joiner and Response of Collateral Logistics, Inc. and Steve Haas to the US Trustee's Motion for Disgorgement and Earlier Statements of Disqualification of the Firm Traub, Bonacquist & Fox Along with Replacement of Barry Gold as Plan Administrator and Disqualification and Disgorgement of the Firm of Morris, Nichols Arsht & Tunnell
24.	3/1/2005	2213	Hearing held on 3/1/2005 – Sign In Sheet

Tab No.	Date Filed	Docket No.	Description of Pleading
25.	3/1/2005	2214	Response Of Steve Haas President Of Collateral Logistics, Inc. To Barry Gold's Response On January 25 th 2005 To The Motion Of Steve Haas And Collateral Logistics And The Separate Motion Of Robert K. Alber An eToys Shareholder Which Requested Emergency Actions Of The Court In The eToys Matter Due To Fraud And Failure To Disclose Along With Other Actions On December 22 nd 2004 Including Sanctions Of Disqualification Disgorgement And The Appointment Of An Examiner Or Other Measures That The Court Deem Appropriate Under The Code To Correct Matters
26.	3/1/2005	2215	Response Of Steve Haas President Of Collateral Logistics, Inc. Morris Nichols Arsht & Tunnel On January 25 th 2005 Along With Their Relative Response In Feb. To The Motion Of Steve Haas And Collateral Logistics And The Separate Motion Of Robert K. Alber An eToys Shareholder Which Requested Emergency Actions Of The Court In The eToys Matter Due To Fraud And Failure To Disclose Along With Other Actions On December 22, 2004 Including Sanctions Of Disqualification Disgorgement And The Appointment Of An Examiner Or Other Measures That The Court Deem Appropriate Specifically To Assure Good Faith Compliance To The Plan By Debtor Under The Code To Correct Matters Of Fraud On Disclosure
27.	3/1/2005	2216	Response Of Steve Haas President Of Collateral Logistics, Inc. To The Offer To Compromise And/Or Settle The Traub Bonacquist & Fox Along With Barry Gold And Other Related Matters With Broad Indemnification Language Presented That Is Hereby Objected To As Being Far To Lenient
28.	3/1/2005	2217	Affidavit of Collateral Logistics, Inc. that Collateral Logistics, Inc. is Pro Se
29.	3/5/2005	2220	Supplemental Response of Morris, Nichols, Arsht & Tunnell to Motion of Robert K. Alber for Disqualification of Morris, Nichols, Arsht & Tunnell as Counsel to Reorganized Debtor, Disgorgement of Compensation and Other Relief

Tab No.	Date Filed	Docket No.	Description of Pleading
30.	3/9/2005	2221	Joinder of Robert K. Alber Inter Alia the US Trustee's Motion for Entry of an Order Directing Disgorgement of Fees Paid to the Traub, Bonacquist & Fox LLP et al for Services Rendered as Counsel to Official Committee of Unsecured Creditors with this week Response to the Hearing of March 1, 2005 and the New Evidence Issues
31	3/9/2005	2222	Supplemental Statement of Robert K. Alber, eToys Shareholder, Requesting the Court Impose Harsher Sanctions on Traub, Bonacquist & Fox LLP and Disqualify Barry Gold as Plan Administrator (on behalf of Robert K. Alber as well as other ETYSQ shareholders of record)
32.	3/11/2005	2223	Certificate of Service of Robert K. Alber to Joinder Inter Alia re: the US Trustee's Motion for Disgorgement of Fees Paid to Traub, Bonacquist & Fox LLP
33.	3/11/2005	2224	Certificate of Service of Robert K. Alber to Supplemental Statement Requesting the Court Impose Harsher Sanctions on Traub, Bonacquist & Fox LLP and Disqualify Barry Gold as Plan Administrator
34.	3/15/2005	2225	United States Trustee's Reply to Pleadings Styled as (A) Robert K. Alber Joining Inter Alia the United States Trustee's Motion for Order Directing Disgorgement of Fees Paid to Traub, Bonacquist & Fox LLP et al for Services Rendered as Counsel to Official Committee of Unsecured Creditors with This One Week Response to the Hearing of March 1, 2005 and the New Evidence Issues (D.I. 2221) and (B) Supplemental Statement by Robert K. Alber, eToys Shareholder, Requesting the Court Impose Harsher Sanctions on Traub, Bonacquist & Fox LLP and Disqualify Barry Gold as Plan Administrator (D.I. 2222)

Tab No.	Date Filed	Docket No.	Description of Pleading
35.	3/15/2005	2226	Response by Traub, Bonacquist & Fox LLP (A) in Support of US Trustee's Motion Seeking Approval of a Settlement with Traub, Bonacquist & Fox LLP and (B) in Opposition to (i) Supplemental Statement and Joinder in US Trustee Sanctions Motion Filed by Robert K. Alber, (ii) Limited Joinder and Response of Collateral Logistics, Inc. and Steve Haas to the US Trustee's Motion for Disgorgement and (iii) Response of Steve Haas President of Collateral Logistics, Inc. to the US Trustee's Offer to Compromise and/or Settle with Traub, Bonacquist & Fox LLP (Dockets Nos. 2145, 2146, 2201, 2202, 2211, 2216, 2221 and 2222 respectively)
36.	3/15/2005	2227	Barry Gold's Response to Robert K. Alber's Joining of United States Trustee's Motion for Disgorgement (Docket No. 2221) and Supplement Statement (Docket No. 2222)
37.	3/15/2005	2228	Transcript from Hearing held on March 1, 2005
38.	3/15/2005	2229	Response of EBCI, Inc. f/k/a eToys, Inc. Reorganized Debtor, to Supplemental Statement of Robert K. Alber
39.	3/15/2005	2231	Response by Robert K. Alber to Supplemental Response of MNAT, eToys Debtors Counsel, eToys Docket 2220, which is a Response to eToys Docket 2178, Requesting Disqualification of MNAT, Disgorgement of Compensation Paid to MNAT for Services Rendered, Sanctions, and Other Relief, for Not Disclosing the Fact that they, MNAT, Had Not Disclosed their Relationship with Goldman Sachs (GS) and General Electric (GECC)
40.	3/17/2005	2232	Second Supplemental Response of Morris, Nichols, Arsht & Tunnell to Motion of Robert K. Alber for Disqualification of Morris, Nichols, Arsht & Tunnell as Counsel to Reorganized Debtor, Disgorgement of Compensation and Other Relief

Tab No.	Date Filed	Docket No.	Description of Pleading
41.	10/4/2005	2319	Opinion DENYING Motion of Collateral Logistics, Inc.; GRANTING IN PART and DENYING IN PART Motions of Robert K. Alber; APPROVING Settlement Between U.S. Trustee and Traub, Bonacquist, Fox LLP; APPROVING Settlement with Goldman Sachs & Co.
42.	10/4/2005	2320	Order DENYING Motion of Collateral Logistics, Inc.; GRANTING IN PART and DENYING IN PART Motions of Robert K. Alber; APPROVING Settlement between U.S. Trustee and Traub, Bonacquist, Fox LLP; APPROVING Settlement with Goldman Sachs & Co.
43.	10/4/2005	2321	Certificate of Service filed by Barry Gold, as Plan Administrator for the Substantively Consolidated Chapter 11 Estates of EBCI, Inc. f/k/a eToys, Inc. et al, for the Court's October 4, 2005 Opinion and October 4, 2005 Order
44.	10/14/2005	2326	Notice of Appeal Of The Court's Decision Entered On October 4, 2005. Appeal Number 05-70, filed by Steven Haas, President of Collateral Logistics, Inc.
45.	10/14/2005	2327	Notice of Appeal Of The Court's Decision Entered On October 4, 2005, filed by Robert K. Alber.
46.	11/24/05	2329	Notice of Conditional Cross-Appeal
47.			Transcript of Deposition of Paul Traub of February 9, 2005
48.			Transcript of Deposition of Michael S. Fox of February 9, 2005
49.			Transcript of Deposition of Barry Gold of February 9, 2005
50.			Transcript of Deposition of Michael Busenkell of February 9, 2005

Tab No.	Date Filed	Docket No.	Description of Pleading
			Traub, Bonacquist & Fox Exhibits
51.		*	Two Page Documents.
52.		*	A1- Deposition of Paul Traub
53.		*	A2- Home Life Document
54.		*	A3- Billing Statements
55.		*	A4- New York Court Documents
56.		*	A6- Secretary of State Document
57.		*	T1- Paul Traub Declaration
58.		*	T2- Michael Fox Declaration
59.		*	G1- Barry Gold Declaration
60.		*	G2- Plan Administrator Agreement
			Morris Nichols Arsht & Tunnell Exhibits
61.		*	A1- Docket 868
62.		*	A2- Docket 873
63.		*	A3- Compilation
64.		*	A4- Transcript of December 6, 2001
65.		*	A5- Transcript of November 19, 2001
66.		*	A6- Billing Excerpts
67.		*	A7- Transcript of November 1, 2002
68.		*	A8- TB&F Billing Statements
69.		*	MNAT's Objection and Attachments

* March 1, 2005 Hearing Exhibit.

In accordance with Bankruptcy Rule 8006 and Local Rule 8006.1, Appellee has provided copies of the items designated herein to the Clerk of the Bankruptcy Court.

COUNTER-STATEMENT OF ISSUES ON APPEAL³

1. Whether the Bankruptcy Court's Opinion and October 4 Order, which denied the Alber Emergency Motion [Docket No. 2145] in full as relates to TB&F, Barry Gold and the United States Trustee, and granted the Alber Emergency Motion in part as relates to MNAT, were clearly erroneous?

2. Whether the Bankruptcy Court was correct in determining that the UST Settlement Motion should have been approved under Section 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019(a) as being within the range of reasonableness?

WHEREFORE, Appellee respectfully requests that the Clerk of the Bankruptcy Court transmit this Counter-Designation and the Record on Appeal to the Clerk of the United States District Court, District of Delaware.

Dated: November 3, 2005

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-and-

³ Appellant has sought to identify numerous issues on appeal. Appellee submits that most of the issues raised by appellant are not relevant to and should not be heard as part of this appeal. Appellee reserves all rights as to the scope of the issues to be heard on this appeal.

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